UNITED NATIONS

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Economic and Social Council

Distr.
GENERAL

E/C.12/1996/SR.9/Add.1
24 May 1996

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)*
OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 May 1996, at 10 a.m.

Chairperson: Mr. ALSTON

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* The summary record of the first part (closed) of the meeting appears as document E/C.12/1996/SR.9.

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GE.96-16129 (E)

The public part of the meeting was called to order at 11.15 a.m.

ORGANIZATION OF WORK

Exchange of views on the possibility of revising the general guidelines regarding the form and contents of the reports to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights and on the difficulties encountered by the Committee in discharging its mandate

1. The CHAIRPERSON recalled that it had been suggested that the general guidelines regarding the form and contents of the reports to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights should be amended in the light of the decisions taken at the Copenhagen World Summit. It had also been recommended, at the Fourth World Conference on Women in Beijing in 1995 and at a meeting organized by the Centre for Human Rights, that greater emphasis should be given to the gender perspective in human rights activities. In addition, the Commission on Human Rights had suggested that the treaty bodies should consider revising their guidelines so as to give more attention to the discrimination suffered by women. He therefore suggested that the Committee should have a preliminary exchange of views on the possibility of revising the guidelines.

2. Mrs. BONOAN-DANDAN proposed that she and Mrs. Jimenez Butragueño should see which parts of the guidelines should be changed in order better to accommodate the notion of equity between the sexes and that Mr. Simma should then draft the text of the amendments for submission to the Committee.

3. Mr. SIMMA accepted the proposal. The text could be submitted to the Committee at its next session.

4. The CHAIRPERSON said that, if there was no objection, he would take it that the proposal was adopted.

5. It was so decided.

6. Mrs. JIMENEZ BUTRAGUEÑO said that the general guidelines should place more emphasis on the promotion not only of the rights of women but also of the rights of the elderly and children, amongst other groups. It would also be useful to redraft the guidelines on the preparation of States party reports in even clearer language.

7. Mr. CEAUSU agreed with Mrs. Jimenez Butragueño that the guidelines should be redrafted in the light of the experience gained by the Committee in recent years, in order to facilitate the work of country rapporteurs. In particular, it should be clearly stated that the reports submitted to the Committee must deal only with new developments since the submission of the preceding report and not repeat what had already been stated in that report. The reports were not designed to be technical works but, rather, to give the members of the Committee an idea of the situation in a country.

8. Furthermore, when a State had submitted a report to another body on a subject of interest to the Committee on Economic, Social and Cultural Rights, it would be more useful for the Committee to receive the observations made by the experts who had examined the report rather than a detailed treatment of the subject. If that could not be done, a complete report should be submitted by the State party.

9. Mr. GRISSA said that the guidelines should indeed be revised, but the Committee must also ensure that States parties took them into account in the preparation of their reports. He agreed with Mr. Ceausu that the reports should deal only with the developments - positive or negative - in the situation of human rights in the country concerned since the preceding report.

10. Mr. SIMMA agreed with Mr. Grissa. The first reports submitted to the Committee had complied with the general guidelines and had in fact been easier to handle. He suggested that the Committee should run through the matters to be covered in the guidelines in order to ensure that nothing was left out. He also requested that the Secretariat should provide the members of the Committee with photocopies of the parts of the reports of other bodies, such as the International Labour Organization (ILO), which were relevant to the country reports considered by the Committee. However, that would probably be impossible in the case of lengthy documents, and summaries did not offer a satisfactory solution.

11. Mr. CEAUSU said that it was extremely difficult, not to say impossible, for the members of the Committee to digest on their arrival in Geneva the many annexes and information documents referred to in a written report of a State party, for they were often very long and in the original language. Accordingly, in its guidelines the Committee should request States not to send entire booklets or extracts from legal or statistical compilations but to make summaries of that kind of document and to cite figures or statistics only for purposes of illustration.

12. The CHAIRPERSON said that, even if the members of the Committee had received at home the annexes and other information attached to the reports, they would still not have had time to read them. The only possible solution to the problem would be for the Centre for Human Rights to have a staff member specializing in economic, social and cultural rights who would sort out all the documents received, assess their value and importance and, depending on the case, either make summaries or send them on to the relevant members of the Committee. Until such time as a qualified staff member was appointed to assist the Committee in its work, it would have to continue to try to do things which were beyond its material means.

13. As things stood at present, if the general guidelines were expanded so as to give emphasis to the situation of women or the elderly, it would also be necessary to give emphasis to the rights of other groups, with the concomitant risk that the guidelines would no longer apply to anything.

14. That said, he wondered whether it would not be better to abandon root and branch of the existing system for considering periodic reports. The current general guidelines were perfectly satisfactory for consideration of the initial reports of countries, because when the Committee took up the situation

in a country it did in fact need to be given a general picture. However, the present formula left much to be desired with regard to subsequent reports, when it was extremely difficult to get to the bottom of things. For example, the Committee could not claim to have obtained a clear idea of the exercise of the right to health in Spain. In order to improve the present situation, which was most unsatisfactory, he suggested a different mode of operation: a pre-sessional working group would first study the situation in a country in collaboration with the specialized agencies and non-governmental organizations (NGOs) and then, on the basis of the documents supplied by the Secretariat, would identify five or six areas of concern and request the State party to submit a report on the points raised. It was conceivable that on such a basis States would submit more specific reports and send the necessary specialists to confer with the Committee. However, the fact that it was giving special attention to certain topics would not prevent the Committee from also taking up any other question if it saw fit. If the Committee wished, he would put his ideas about a different system for considering reports in a paper for submission to the Committee at its next session.

15. With regard to the current crisis in the United Nations, it was no accident that some States, and not just the United States of America, were behind in their contributions. He feared that the shortage of paper, which was currently denying the members of the Committee the possibility of making photocopies, would evolve in the future into a cut-back in the number of documents translated, including the reports of States. In that connection, the General Assembly resolution concerning the position of the French language remained a dead letter. The failure to translate documents into all the working languages would be a serious impediment to the functioning of the Committee.

16. Mr. SIMMA said that the idea of changing the system for consideration of reports had already been put forward in the Committee a few years earlier and he could already endorse the arrangement suggested by the Chairperson. The subject certainly warranted more detailed discussion at a later stage.

17. The CHAIRPERSON said that the question of the guidelines should also be viewed in the more general context of the constant difficulties encountered by the Committee, which the Centre for Human Rights and the High Commissioner for Human Rights were doing little about. For example, it was significant and symptomatic that the members of the Committee did not always have a room in which to work when not meeting.

18. In that connection, he could inform the members of the Committee that on 26 January 1996, following the previous session, he had sent a letter to the High Commissioner for Human Rights on two matters, pointing out that unless a satisfactory outcome was achieved shortly in relation to those matters "the Committee will have difficulty avoiding harsh criticism of the Centre". The first matter related to the Committee's oft-repeated request that a staff member should be recruited to the Centre for Human Rights to specialize in economic, social and cultural rights and work directly with the Committee; the second related to the holding of a seminar in conjunction with representatives of the World Bank. On the first matter, the requested post had been established two years previously but had been used to meet the needs of the High Commissioner's Office.

19. The High Commissioner had replied in a letter dated 18 April in which he had said inter alia that the Committee's wish to have a specialist in economic, social and cultural rights would be taken into account "within the framework of the ongoing process of restructuring of the Centre for Human Rights"; the High Commissioner had added at the end of the letter that he understood the feelings of the Committee's Chairperson but regretted the tone which the latter had adopted. After having copies of the exchange of letters circulated to the members of the Committee, he (the Chairperson) said that he regretted that once again its requests had fallen on deaf ears.

20. Mr. SIMMA said that, in view of the attitude of the High Commissioner for Human Rights, the Committee must react swiftly. He proposed that it should request a meeting with the High Commissioner to discuss face to face the way in which the matters raised had been handled. As someone who had often criticized the Secretariat, he was willing to be one of the members of the Committee to meet the High Commissioner. Quite apart from the approach to the High Commissioner, he would draw the present situation to the attention of his Government in Bonn, without that compromising in any way his independence as an expert. The other members of the Committee should also inform the human rights officials in their Governments about the attitude of the Centre for Human Rights.

21. Mr. WIMER ZAMBRANO said that he was taken aback by the High Commissioner's reply and that the Committee, not just its Chairperson, should react immediately by sending the High Commissioner a letter strongly deploring the tone of his letter. After all, the Committee was only asking to be given the means to do its work properly. The fact that it was only just able to fulfil its mandate at present was due to the failure of many States to submit their reports on time.

22. Mr. AHMED said that the exchange of letters between the Chairperson and the High Commissioner should be circulated widely; one possibility would be to send copies to the Economic and Social Council, to the President of the General Assembly and to the United Nations Secretary-General.

23. The CHAIRPERSON said that, if a meeting of the United Nations Secretariat and the chairpersons of the treaty bodies was held as planned, he would certainly bring up the Committee's concerns.

24. Mr. TEXIER agreed that the Committee must react very firmly. He had no illusions about the scope of a meeting with the High Commissioner, but such an approach would give the situation a wider airing. He proposed that the exchange of letters should be reproduced in the Committee's report. It was in general terms regrettable that the High Commissioner was not more sensitive to economic, social and cultural rights and the notion of the interdependence of human rights.

25. The CHAIRPERSON said that the protection of economic, social and cultural rights was part of the High Commissioner's terms of reference, but it might well be asked what he had done in that area since his appointment. The right to development was only one element of economic, social and cultural rights. The time had come for the Committee to speak out loud and clear and no longer leave things to the diplomats. Since the Committee seemed to be in agreement,

he suggested that the Secretariat should be asked to convey the concerns just expressed to the High Commissioner and request a meeting with him before the end of the session.

26. It was so decided.

27. The CHAIRPERSON suggested, with respect to the possible revision of the general guidelines, that Mrs. Bonoan-Dandan, Mrs. Jimenez Butragueño and Mr. Simma should be asked to take another look at the issue in the light of the discussion and that the Committee should take it up again at its next session.

28. It was so decided.

29. The CHAIRPERSON suggested that the Committee should include at the beginning of its report a resolution outlining the various points on which it would like prompt action to be taken, for example the appointment by the Centre for Human Rights of a specialist in economic, social and cultural rights to assist the Committee. The Committee on the Rights of the Child had proceeded in that manner, and such a resolution would be very useful. He also suggested including, at the beginning of the Committee's report, a brief passage providing the public with information on its establishment and terms of reference with respect to the receipt of communications. He also suggested using a different typeface for the Committee's reports in order to save paper and thus reduce distribution costs.

30. With respect to follow-up of the Committee's actions, he requested the Secretariat to prepare a brief paper indicating the points which the Committee had requested various States parties to clarify at the end of the preceding session and to submit such a paper at the beginning of each session. That would enhance the follow-up of the requests for action or information addressed by the Committee to States parties and would provide a means of keeping NGOs informed.

31. He would like to invite the representatives of the specialized agencies to participate in closed meetings of the Working Group, as was the practice in other committees. Each such meeting might last half a day. He requested the Secretariat to draw up a list of national NGOs working in the field of economic, social and cultural rights and send them copies of the Committee's reports. He would also like the Committee to request him to approach the World Bank and the United Nations Development Programme directly with a view to closer cooperation in the field of economic, social and cultural rights. As was made clear in his exchange of letters with the High Commissioner, for three or four years the Committee had been requesting the organization of a meeting with the World Bank. He knew that the Bank was willing, but the convening of the meeting had been delayed by the Centre. He had recently put to senior Bank officials the idea that it should declare that the right to education should be the starting-point for action in that area. They had commended the idea and expressed the view that such a starting-point would transform their dialogue and their relations with Governments.

32. Mr. CEAUSU said that the idea of requesting the Secretariat to inform NGOs about the submission of government reports was a good one. However, the

Committee's general guidelines stipulated that it was Governments which should inform NGOs about the reports submitted. It would be appropriate to include in the Committee's report a resolution recommending that Governments should distribute their reports not only to NGOs but also to trade unions. The Committee must know the reactions of all the bodies - trade unions or NGOs - which were fighting for their economic, social and cultural rights; the ILO tripartite system, which brought together Governments and employers' and workers' organizations, was an example to follow in that regard.

33. Mr. TEXIER recalled that a letter had been sent to the Committee by a group of Argentine NGOs concerning evictions in a district of Buenos Aires. The letter begged the question of the attitude which the Committee should take in such cases and the means of action available to it, including the possibility of enjoying the services of a specialist in economic, social and cultural rights, as requested from the Centre. What could the Committee do when that kind of problem was submitted to it between sessions? The Committee was powerless in such situations. It was not its role to take urgent action, but nor could it let such letters go unanswered. Should it refer NGOs to other sections in the Centre? Was there a mechanism for responding to such situations? It seemed that the procedure established by Economic and Social Council resolution 1503 (XLVIII) was not suitable. There was also the difficulty which arose when NGOs submitted information at a time when the State party in question was not scheduled to submit a report. It was of course possible to urge the State party to submit its report as quickly as possible in such cases. But in what way could the Committee draw the attention of the State party to information submitted by NGOs? In the past the Committee had proceeded on an ad hoc basis. However, if it was to move towards increased participation by NGOs in its work, in accordance with the Chairperson's wish, which he fully endorsed, the result would be that NGOs would have increasing recourse to the Committee. It should ask itself whether it was possible or desirable to have some means of responding to urgent matters brought to its attention between sessions. In the present case the Argentine NGOs had sent their letter in January, and the Committee would not have answered it until May. How could things be speeded up?

34. Mr. GRISSA said that the possibility that NGOs might bring a situation to the Committee's attention between sessions posed a dilemma for the Committee. It had to compare the complaints submitted by NGOs with the views of Governments. In such cases the Committee should draw the attention of States parties to the information sent to it by NGOs.

35. Mr. SIMMA agreed with Mr. Grissa and said that nothing in the Committee's terms of reference prevented it, between sessions, from drawing a Government's attention, tactfully, to information from NGOs. The Committee should urge the Government to discuss the matter with it without awaiting the submission of its next report.

36. The CHAIRPERSON said that in the present case the Committee should adopt a balanced position. By encouraging NGOs to submit large volumes of information, the Committee ran the risk of not being able to respond to all the requests, thus disappointing the NGOs. Moreover, if the Committee approached Governments too often with requests for explanations about various situations, it was to be expected that some Governments would not respond.

The Committee should therefore examine only serious and verified situations reported by NGOs and then bring them to the attention of Governments. By taking a more moderate stance the Committee would secure better results.

37. Mrs. KLEIN (Secretariat) informed the members of the Committee that a reading and work room and a librarian of the United Nations Office at Geneva would soon be at their disposal but that the room would have to be shared with the members of other committees. The Secretariat was trying to establish contact with NGOs working in the field of economic, social and cultural rights, but it was more difficult to identify such organizations than organizations concerned, for example, with the rights of the child. The Secretariat had requested Human Rights Watch to provide it with a list of the national NGOs with which it maintained contact. For several months now the Secretariat had been sending to various international NGOs a list of the country reports which would be considered during the next six months by the various committees and had requested them to transmit the information to the national NGOs with which they were in touch. A number of specialized agencies provided useful information about economic, social and cultural rights, and both the Committee on the Rights of the Child and the Human Rights Committee invited such agencies to participate, for an afternoon, in closed meetings of their working groups.

The meeting rose at 1.05 p.m.